

**Department of Revenue
2020 Omnibus Bill
Background Memorandum**

The Iowa Department of Revenue (IDR) offers this bill to address a variety of changes to improve administration of Iowa's tax laws. This is IDR's first departmental bill in five years.

Division I of the bill makes various changes to IDR's administration of the Iowa tax code. It allows IDR to apply penalties to monies and credits taxpayers who fail to file and pay on time, bringing those taxpayers in line for possible penalties that can be imposed on other taxpayers. It also adds potential penalties for taxpayers who are obligated to file a return or other form with IDR but do not have any tax due and fail to file.

The bill permits IDR to enter into agreements with state or county fairs to have those entities collect and remit sales tax from vendors during events on fairgrounds. The bill clarifies the applicability of perjury related to submission of forms or other documents to IDR. The bill allows IDR to enter into memoranda of understanding with taxpayers and third-party entities who file returns on behalf of those taxpayers such that the third-party entity would not need separate power of attorney forms for each of its employees.

The bill allows IDR to publish its Taxpayer Bill of Rights on its website and provide information on accessing it to taxpayers. IDR will still make the Taxpayer Bill of Rights available in paper format to taxpayers on request. The bill also allows taxpayers to let IDR know they wish to receive only electronic communications from IDR going forward.

The bill clarifies who is covered by last year's legislation to regulate tax return preparers and what types of returns are included in that regulatory scheme.

The bill expands the scope of penalties to apply to more persons who fail to file required information returns or who are attempting to engage in fraud. It removes a penalty for inadvertent disclosure of personally identifiable information and more thoroughly explains what types of information may be released by IDR under certain circumstances.

This division clarifies current law, as set forth through IDR administrative rule, that IDR is not limited by time for actions to recover on incentives or assistance awarded by the Economic Development Authority to a taxpayer that subsequently failed to meet or maintain the requirements for receiving those incentives or assistance.

This division makes several changes for the administration of property tax as well. It allows governmental entities to enter into an agreement with Iowa Land Records for the electronic transfer of information, which is currently required but can only happen in paper form. It updates the procedures for protesting property tax assessments to reflect current practice. It also changes when a declaration of value is required to be filed upon transfer of title for land, requires that the county recorder record the declaration of value at no cost to the person, and eliminates the requirement that such documents be transmitted to IDR by the county recorder, since they will be available from Iowa Land Records. This should reduce administrative time on each county recorder and IDR in dealing with declarations of value.

Lastly, the division removes IDR from the reinstatement process for businesses that have been administratively dissolved by the Secretary of State.

Division II of this bill deals with sales and use tax. First, it allows county recorders to collect sales tax on the sale of snowmobiles and all-terrain vehicles when the tax has not

already been paid. Current law requires the tax to be paid before those items can be registered, but does not allow the recorder to collect the tax. These provisions are modeled on similar language for boats in Code section 462A.55.

The division includes a handful of items needing attention in light of the various changes from 2018 Acts, Senate File 2417. It proposes to treat the customization of software delivered in physical form the same as digitally delivered software, thus avoiding potential issues with the federal Internet Tax Freedom Act. The bill adds specified digital products to a provision relating to bundled transactions such that those products may be treated similarly to tangible personal property if sold with services. The bill clarifies the obligations for retailers to collect sales or use tax in light of SF 2417 and the *Wayfair v. South Dakota* U.S. Supreme Court decision. The bill also clarifies that under current law, a retailer and a purchaser may be held jointly liable for tax not initially collected by the retailer: sales and applicable local option sales tax and consumer's use tax for the purchaser. The bill adds that if the purchaser remits use tax, the retailer is still liable for the unpaid local option sales tax.

The division seeks to clarify several areas of confusion or common misunderstanding among the various exemptions from sales tax. The bill modifies the exemption for sales of preserve whitetail between 2005 and 2015 to clarify that the exemption applies to sales of the activity of commercial recreation that includes the hunt of such a deer. The bill adds language to reflect existing law, by way of federal laws and treaties, that purchases by tribal governments are exempt from sales tax. The bill harmonizes the up-front exemption and the back-end refund provisions for designated exempt entities. The bill exempts diapers reimbursed by Medicaid from sales tax. It also removes a reference to a use tax rate of six percent for manufactured housing, since another provision was added in 2008 to keep the rate for manufactured housing at five percent, but the higher rate was not removed.

Division III modifies an income tax provision relating to the carryback of net operating losses. For tax years beginning on or after January 1, 2020, the law would thus allow a taxpayer to waive the carryback of Iowa net operating loss even if such waiver is not available and claimed at the federal level.

Division IV makes changes to Code provisions related to the Research Activities Credit. The federal Consolidated Appropriations Act of 2018 (PL 115-141), to which Iowa is conformed for tax year 2019 and beyond, struck and renumbered a provision of the federal research credit, which resulted in the simplified credit now residing under IRC 41(c)(4), but Iowa Code still references IRC 41(c)(5). This division is retroactive for tax years beginning on or after January 1, 2019 to align it with the conformity date used in changes to the state credit in recent years.

Division V makes changes to Iowa's general statute of limitations and reporting of adjustments to federal taxable income which would more closely align Iowa law to the model uniform statute created by the Multistate Tax Commission. Division V also creates a procedure to report changes to federal taxable income resulting from new federal centralized partnership audits which is substantially similar to the model uniform statute created by the multistate tax commission. This procedure is intended to facilitate the efficient collection of Iowa tax revenues that may otherwise be put at risk by the structure of these new federal partnership audits, and to provide taxpayers with clear guidance on reporting Iowa tax changes resulting from an audit. Among other things, this procedure allows partnerships and certain partners to

elect to pay additional Iowa tax, penalty, and interest arising from a federal partnership adjustment on behalf of its owners, thereby relieving the owners of the administrative requirement to further report such federal adjustments to Iowa. Division V also establishes that Iowa audits and assessments of, or appeals by, pass-through entities such as partnerships and S corporations will be conducted and determined solely at the entity level through a state partnership representative, and provides a procedure for reporting those Iowa audit adjustments that is similar to the procedure for reporting federal centralized audit adjustments, including but not limited to the election to pay additional Iowa tax, penalty, and interest arising from the Iowa audit adjustment on behalf of its owners.